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ABSTRACT

America's legal-educational history is filled with scores of cases of alleged radical teachers who have been legally excluded or removed from public school positions. Only a few of these cases have involved the First Amendment issue of inclass utterances by radicals. Such cases are significant because they highlight the established society's attitude toward free speech and antithetical sociopolitical views. Until recently that attitude could be characterized as primarily repressive. Even now there is no guarantee that the tolerant attitude and opinions expressed in "Keyishian vs. Board of Regents" and "Communist Party of Indiana vs. Whitcomb" will not be reversed. Indeed, because the courts reflect as much as they shape the trends of the times, the history of United States judicial decisions suggests that such attitudes might be reversed at any moment. Certainly, Justice Oliver Wendell Holmes's concept of "clear and present danger" enables the courts to adapt their decisions to the needs of the moment. In this situation, radical teachers may never be able to safely express their views, especially in nonhigher education institutions. Historically, judicial flexibility on the issue of the First Amendment's guarantee of free speech has meant little freedom "for the one who thinks differently." (MD)

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America's Public Classrooms: The Courts and Radical In-Class Utterances

1983

This study will examine the past and current legal scope of U.S. public school teachers' freedom to propagate the radical ideas of socialism inside U.S. classrooms. It will concentrate on the empirical legal-historical evidence of radical in-class utterances and the judicial system's response to those utterances.

1) Background[1]

The Republic's Founders did not sacrifice the private property basis of the Constitution by adopting the first ten amendments to the Constitution. They, likewise, did not treat the first amendment guarantee that "Congress shall make no law . . . abridging the freedom of speech, or of the press . . ." as an absolute. Indeed, frightened by the so-called radicalism of some Jeffersonians, Congress circumvented the first amendment by passing the repressive alien and sedition laws. It undertook this action a scant eleven years after the Constitution was adopted. Although Thomas Jefferson later wiped those laws from the statute books, many subsequent Congresses have passed similar restrictions on free speech. Frequently, their actions in this regard have been motivated by a fear of radical attacks on the sacrosanct institution of private property.

Following the lead of Congress, the Supreme Court has frequently upheld legislative limitations on free speech. The twentieth century bedrock upon which many of these decisions have been based was Oliver Wendell Holmes Jr's principle that free speech could be limited under special circumstances. These circumstances were those which created a "clear and present danger"[2]

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to those things which Congress has a right to protect, i.e., public safety, established government, national security, and private property. Indeed, the famous decision which Holmes wrote in 1919 was designed to uphold the 1917 Espionage Act conviction of a general secretary of the Socialist Party of America.[3] One Schenck, the general secretary, was convicted of encouraging draft resistence by printing and mailing leaflets which attacked the government's conscription law as unconstitutional.

At any rate, Holmes's concept of "clear and present danger" was perfectly suited to curb radical free speech whenever such speech was perceived as a threat to the existing social order. By allowing the courts to respond to the exigencies of changing situations, Holmes's doctrine created the appearance of free speech without its substance. As it turned out, radical free expression would be tolerated, but only so long as it was not likely to inspire a meaningful change in the free enterprise nature of U.S. society. In another context, a European radical drew attention to the limitations of this sort of freedom when she wrote:

> Freedom is always and exclusively freedom for the one who thinks differently. Not because of any fanatical concept of "justice" but because all that is instructive, wholesome and purifying in political freedom depends on this essential characteristic, and its effectiveness vanishes when "freedom" becomes a special privilege.[4]

U.S. court decisions have seldom reflected this point of view. As a result, such men as Hugo Black usually have been lonely dissenters in their absolutist interpretation of the first amendment.[5] Thus, U.S. courts have never consistently defended the legitimacy of radical free speech. Indeed, they have frequently been one of the spearheads on a wave of public intolerance that has suppressed so-called "subversive" speech in times of war

or intense national hysteria. Many times, in such periods as the "Red Scare" years of 1919-1924 or the 1950s, this has meant that the courts have abandoned Holmes's notion of "clear and present danger" and have adopted, instead, a more repressive limitation on the free speaking rights of radicals. In 1919 and 1924, for example, the Supreme Court adopted the standard of a "dangerous tendency" in order to curb radical speaking rights.[6] Holmes himself dissented over this abuse of the first amendment's guarantees.

The 1950s, however, were the prime example of the judiciary's willingness to invade the free speech rights of radicals. It was an era when state and Federal courts used such statutes as the Alien Registration (Smith) Act of 1940 to crack down on radical dissidents, and when thousands of Americans were cowed into silence or denied employment due to their alleged "subversive" sympathies. Gradually the courts began to modify their rulings, and they returned to something resembling Holmes's original concept of "clear and present danger." This was evident in a 1974 Supreme Court case which rendered invalid certain Indiana laws that had restricted the political expression of the Indiana Communist Party even though such expression did not advocate imminent lawless action.[7]

In respect to the nation's institutionalized educational life, the rhythm of court decisions on academic freedom has followed a course parallel to that of court decisions in the larger society. This has been concealed by the fact that most court cases, which have dealt with the issue of the free speech of academic radicals, have not dealt with such cases on the basis of the first amendment. Justice William Douglas drew attention to this practice when he wrote his dissenting opinion in Board of Regents of State Colleges et al. v. Roth (1972):

> When a violation of First Amendment rights is alleged, the reasons for dismissal or for nonrenewal of an employment contract must be examined to see if the reasons given are only a cloak for activity or attitudes protected by the Constitution.[8]

The cloak, however, remained in place, and many twentieth-century cases touching upon the academic freedom of teachers and professors were decided on such non-first amendment issues as: insubordination, lack of tenure, refusal to answer fully a superior's question, refusal to testify before a legislative committee, failure to completely divulge one's past history and associations, incompetency, or falsely swearing to a loyalty oath. Although the cases decided on these grounds were especially prevalent in the 1950s, they continue down to the present. This means that clearcut cases dealing with a radical instructor's free speech in the public school classroom are extremely rare. They, nonetheless, do exist, and they tell much about the judiciary's view of the purpose of American public schools.

II) Caselaw - Radical free speech and the public classrooms

1) Foreman v. School Dist. No. 25 (1916)

The first case occurred in Oregon in 1916. It involved a school teacher named Flora I. Foreman.[9] She was discharged from her duties with only one month remaining on her eight month teaching contract. Ms. Foreman challenged the Columbia county school district's right to fire her and lost a jury trial on the basis of 1913 Lord's Oregon Laws' 3950 and 4057. These laws authorized the state board of education to make regulations for the employment of teachers and for displaying the national flag. By not abiding by the regulations which the board established, Foreman committed a breach of her contract and was discharged. Her subsequent appeal to the Oregon Supreme Court was unsuccessful.

It seems that, from the day she began her Columbia county teaching career, Ms. Foreman was a thorn in the side of the directors (school board members) of Columbia county. And, while there is no definitive case law evidence that she was either a socialist or a communist, it is clear that she was an outspoken radical. At any rate, she had a personal style similar to that of a militant Wobbly (Industrial Workers of the World). If she was not a Wobbly, she was certainly a "direct actionist" in the I.W.W. tradition.

According to the court record and to the directors' accusations against her, Foreman "taught her pupils principles of anarchy and disloyalty to their government, among other things, that the government under which she and they live 'is rotten to the core.'" She also was accused of teaching her pupils "'that there is no God, and that Jesus Christ is not the Son of God.'" Apart from all these misdeeds, Foreman refused to fly the U.S. flag. On that issue, her flaming personality clearly comes across in her announcement: "'I won'tdo it; if you want the flag, you hoist it up yourself.'" A woman of plain English, she concluded her case for academic freedom with these uncompromising words: "'I teach as I darn please.'"[10]

Not suprisingly, the court decided that Foreman was not a self-employed public school teacher. It based its decision on her breach of contract and non-compliance with rule XXX of the state board of education regulation that: "'. . . teachers in the public schools shall, to the utmost of their ability, inculcate in the minds of their pupils correct principles of morality, and proper regard for the laws of society, and for the government under which they live.'"[11]

In its simplist terms, what the court did was uphold the legislature's and the school board's authority to regulate what was taught in the public

schools. On the matter of restricting the free speech of classroom radicals, this Oregon ruling came down heavily in favor of limiting academic freedom. The ruling not only demonstrated that public school teachers have no absolute right of free speech, but that the state and courts expect teachers to provide a considerable degree of social indoctrination in the public schools. This conclusion was reflected and supported in a 1923 case in which the court stated:

> It is settled beyond question that the promotion of patriotism, involving as it does the sense of self-preservation is not only a public purpose but the most elemental of public purposes.[12]

2) Board of Education of Eureka v. Jewett (1937)

The next important case of classroom utterances by a radical occurred in 1937.[13] This was during the period when loyalty oaths made their first appearance in the U.S. The case involved, Victor R. Jewett, a social studies teacher in the Eureka Junior High School of Eureka, California. As an appellant from a lower trial court to the District Court of Appeal in California, Jewett lost his fight to be retained as teacher. The district court upheld the California statute which provided for the dismissal of teachers who had made "seditious utterances" or exhibited "unprofessional conduct" (State, 1933, Section 5.650, p. 1017). Supporting this decision, the state Supreme Court refused to hear the case (1937).

Jewett's communist sympathies were prominently mentioned in the court's record. At school, for instance, he refused to deny he was a communist, and many of his actions suggested a man badly out of tune with the bourgeois environment surrounding him. Both his students and fellow teachers denounced him as either a communist or a disrupter or both. It seems, for example, that he sent many students from his classroom to another classroom

who "were mentally disturbed by his teaching."[14] Now, although this might have pleased such great teachers as Socrates or Erasmus, it did not please the District Court.

In fact, the court was appalled at some of the ideas Jewett was sowing in the minds of twelve and thirteen year olds. He once told one of his students that:

> . . . it was silly and foolish to salute the American flag . . . that 'Russia had the best government in the world, and that we had one of the worst' . . .[that]Russia 'always pays its debts, it is this coutry that doesn't pay its debts'; that the United States was 'the aggressor in every war we have been in'; that 'we were a bully amongst nations and took advantage of all the smaller nations.'[15]

Not content to stop with these remarks, Mr. Jewett pushed one of his extraordinary civics classes into complete political blasphemy by advising his pupils to skip a "patriotic moving picture," and by asserting that he would rather be a "'live coward than go to war.'"[16] Capping off these heresies was no easy task, but Jewett managed to do it by speaking "disparagingly of Abraham Lincoln" and by decrying religion.[17]

It would be an understatement to say that the court was disappointed in Jewett's point of view. He had maintained that the "United States needed neither army or navy," and that if the "United States became involved in war he 'would have nothing to do with it.'"[18] This outlook was contrary to the patriotic attitude the court expected teachers to ingrain in their students. As Judge Held, held:

> By section 5.544 of the School Code, the people of California speaking through the legislature, make it the duty of all teachers to endeavor to impress upon the minds of the pupils the principles of patriotism, and to train them up to a true comprehenson of the duties and dignity of American citizenship.[19]

In other words, Jewett's teaching was beyond the pale. Geographically

misplaced, he was indoctrinating his students in the wrong ideology. As the court so realistically, but somewhat mindlessly, put it:

> The preservation of our nation depends on the patriotism of its people. Our School Code gives recognition to the principle that patriotism is to be instilled in the pupils attending our public schools. This purpose is not accomplished by the retention on our teaching staffs of instructors who entertain the beliefs held by appellant, and who seek to impress those beliefs upon their pupils.[20]

Although the court's decision did not refer to Foreman v School Dist. No. 25, it did stress the patriotic words of Allied Architects' Ass'n of Los Angeles v Payne. Indeed, the issue of patriotism was at the heart of the decision on Jewett's case. In its strongest language yet, the court firmly declared that public school teachers were not hired to challenge the existing order. Quite the contrary, they were hired to "instill" loyalty to that very order of things. And, if they defied this "endeavor," the judiciary let everyone know that it stood ready to protect the existing society's right to perpetuate itself by upholding the dismissal of maverick teachers.

3) Appeal of Albert (1952)

Moving into the 1950s, the next case dealt with an eighteen year veteran of public school teaching.[21] This was Ms. Dorothy Albert, who found herself thrown out of her position as an English teacher in the Taylor-Allderdice High School of Pittsburgh School District. She was discharged on the basis of "'advocation of or participation in un-American or subversive doctrines' in violation of section 1122 of the Public School Code of 1949, P.L. 30, 24 P.S. section 11-1122." Albert's appeal took her to the Supreme Court of Pennsylvania. Before that court, her final efforts to be reinstated proved fruitless.

The court had little doubt as to Albert's identity as a communist.

She was exposed by Matthew Cvetic, an F.B.I. undercover agent, as having attended many meetings of the Communist Party or its "front organizations." She was also denounced for possessing Marxist literature and for being present at discussions about such literature.[22] These activities occurred over a period of years and, although Dorothy never admitted her C.P. membership, they were accepted as proof of her commitment to "subversive doctrines."

What was especially unusual about the Albert case was that no evidence was presented which proved that Dorothy advocated "un-American or subversive doctrines" inside the classroom.[23] Yet, that was precisely what the court assumed when it upheld her dismissal. As the court saw the matter, Dorothy's disloyal conduct in her private non-teaching life was sufficient reason to convict her of disloyalty as a public school teacher. The court began its rather tortured logic with these words:

> Before the appellant Dorothy Albert could be held accountable for entertaining un-American or subversive doctrines it was necessary that she advocate them, and there can be no advocacy through sealed lips . . .[24]

Now, brought to the edge of our seats, we expect to find Dorothy shouting at her students: "Down with capitalism and up with the Soviets!" But, instead we find the court announcing that what it means by "advocacy" is:

> She attended Communist meetings, and . . . took part in discussions, participated in plans for adjusting the American party line to the Moscow party line, voted on reports of Communist party district organizers . . .[etc.].[25]

Since the court record did not state that Dorothy took her English classes on field trips to these Communist Party gatherings, it is unclear as to how Dorothy was subverting them. Nevertheless, with an incredible leap of imagination, the court simply skipped the question of Ms. Albert's direct in-class subversive practices and concluded:

> Inspired and influenced as was Dorothy Albert by atheistic, communistic ideology, no one can evaluate the harm she visited upon the brain, heart and soul of the children who passed through her classes during the eighteen years she was a teacher in the Pittsburgh Schools.[26]

At this point, one may wonder if Pittsburgh has, as yet, recovered from Dorothy's pernicious influence. In any case, the court placed one final tidbit of wisdom on the record of American jurisprudence:

> Miss Albert is not being penalized in her capacity as a private citizen because of any political, economic or social views she may entertain or any expression she may care to give to those views. The concern here is with her rights as a teacher, and the legislature can certainly prescribe qualifications for teachers in the public schools with respect not only to their academic attainments but also to their moral character and their loyalty to the state and federal governments.[27]

Loyalty to the existing social order was the main issue, but one would think, in view of the facts, that only a person with an addled brain could contend that Dorothy Albert was not being penalized for her private activities.

Although the court indulged in plenty of gratuitous denunciations of communism and fifth columnists, there were a number of significant legal messages which were not lost in its anti-communist rhetoric.[28] Foremost among these messages was the principle that teaching is a privilege and not a right.[29] A corollary to that principle was one which held that communist teachers could be fired because they work in a sensitive public domain. This principle is valid even if there is no overt evidence that teachers have been spreading their ideas inside the classroom. Finally, the court demonstrated, once again, the judiciary's commitment to maintaining the existing social order:

> In order to have such a "thorough and efficient system" [the court was referring to clause in the Penn, Const. dealing with public school system] those who teach in the public schools must be persons not only of learning

> and ability, of character and integrity, but they must be devoted to our country, its institutions and the basic principles upon which it was founded and hopefully will ever rest.[30]

4) Sweezy v. State of New Hampshire (1957)

Descending down the slope toward court dictated "single thought," one final case averts a compete tyranical disaster.[31] The case arose in the more rarefied atmosphere of the university environment. For that reason, it will undoubtedly involve decades of legal struggle before the rulings in the Sweezy case will be applied to lower levels of U.S. public education. At any rate, the case involved socialist Paul Sweezy's right of free speech in a university classroom.[32]

The Sweezy episode began in 1954 when he delivered an address before a University of New Hampshire humanities class. Later, he refused to answer questions, put to him by the Attorney General of New Hampshire, regarding the subject matter of the lecture. His subsequent refusal to answer the same questions before a New Hampshire court was ruled as contempt of court and Sweezy's appeal to the Supreme Court of New Hampshire was unsuccessful. All these rulings were based on New Hampshire's laws against "sedition" and "subversion" (N.H. Laws 1951, e. 193: N.H. Rev. Stat. Ann. 1955, c. 588, section 1-16; N.H. Laws 1953, c. 307). Such laws authorized the Attorney General to ferret out subversives and Sweezy disputed their constitutionality on the basis of his first and fourteenth amendment rights. The U.S. Supreme Court agreed to hear the case by treating it as a petition for writ of certiorari.[33]

Like Albert's earlier case, the state authorities simply assumed Sweezy was spreading "subversive" ideas within the classroom because he was a socialist. He, however, refused to answer such questions as: "What was the subject of your lecture?" "Did you advocate Marxism at that

time?" "Did you . . . espouse the theory of dialectical materialism?" "Do you believe in Communism?" As a result of Sweezy's reticence, the court record does not reveal that Sweezy discussed any of these topics in class, but the New Hampshire legal authorities presumed that he did.

This was a judgement which the momentarily liberal U.S. Supreme Court decided it could not tolerate. In a landmark decision, six judges of the Court affirmed the argument that academic freedom is protected by the first and fourteenth amendments. And, as distinct from all the other cases presented in this essay, the Court finally upheld the individual teacher's right of free speech. Gone from the Court's verbiage was the idea that schools should be merely gristmills of social indoctrination and thought control. Instead, this Court took the unusual stand that free inquiry, diversity, controversy and intellectual stimulation are the primary values of the American educational system. In the Court's words:

> To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation. No field of education is so thoroughly comprehended by man that new discoveries cannot yet be made. . . . Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die. . . .
>
> . . . . . .
>
> History has amply proved the virtue of political activity by minority, dissident groups, who innumerable times have been in the vanguard of democratic thought and whose programs were ultimately accepted. Mere unorthodoxy or dissent from the prevailing mores is not to be condemned. The absence of such voices would be a symptom of grave illness in our society.[34]

The eloquence of the Court's words in Sweezy's case was matched by its good judgement in upholding his right of free speech. That decision, however, was only a pebble in a sea of 1950s litigation which supported local government's authority to bar "subversives" from the classroom. Sweezy's case, for all its significance, was followed by Lloyd Barenblatt's failure to retain his psychology teaching position at Vassar College because

he refused to testify about his alleged communist connections before the House Un-American Activities Committee.[35] Other cases also demonstrated that the courts of the land were less than enraptured by the Supreme Court's action in Sweezy v. New Hampshire. In Carr v. Young (1960), for example, the Supreme Court of Arkansas upheld the constitutionality of an Arkansas statute (Acts 1958, 2nd Ex. Sess. Act No. 10) requiring that all public school teachers sign an affidavit listing their personal membership in organizations or associations for a period covering the preceeding five years.[36]

Still, the Sweezy case was a first step toward a more enlightened judicial view of a democratic society. Thus, haltingly, other decisions followed its liberal footsteps. By 1967, after nearly two decades of anti-radical repression fostered by New York State's notorious Feinburg Law (Education Law, section 3021, Civil Service Law, section 105, McKinney's Consol. Laws, c. 16, section 3022), the U.S. Supreme Court finally found it unconstitutional to disqualify teachers from public employment merely on the prima facie evidence of membership in some legislatively proscribed group.[37] Going still further, the Court attacked sections 3021 of the Feinburg law for its vagueness. This section permitted the removal of teachers on the grounds of "treasonable or seditious utterances or acts." And, despite the Court's persistent claim that the state had a right to "protect its education system from subversion," it noted:

> The teacher cannot know the extent, if any, to which a "seditious" utterance must transcend mere statement about abstract doctrine, the extent to which it must be intended to and tend to indoctrinate or incite to action in furtherance of the defined doctrine. The crucial consideration is that no teacher can know just where the line is drawn between "seditious" and nonseditious utterances and acts.[38]

It remains to be seen if this openminded view will continue. For, in spite of the court's practice of following precedents, nothing is

inevitable about the course of court decisions regarding the speaking rights of the radical members of our society.

VII) Conclusion

America's legal-educational history is filled with scores of cases of alleged radical teachers who have been legally excluded or removed from public school positions. Only a few of these cases have involved the first amendment issue of in-class utterances by radicals. Such cases are significant because they highlight the established society's attitude toward free speech and antithetical socio-political views. Until recently that attitude could be characterized as primarily repressive. Even now there is no guarantee that the tolerant attitude and opinions expressed in Keyishian v. Board of Regents and Communist Party of Indiana v. Whitcomb, will not be reversed. Indeed, because the courts reflect as much as they shape the trends of the times, the history of U.S. judicial decisions suggests that such attitudes might be reversed at any moment. Certainly, Homes's concept of "clear and present danger" enables the courts to adapt their decisions to the needs of the moment. In this situation, radical teachers may never safely express their views, especially in non-higher education institutions. Historically, judicial flexibility on the issue of the first amendment's guarantee of free speech has meant little freedom "for the one who thinks differently."

Notes

[1]This background material was mainly inspired and shaped by one source. See Alan Barth, Prophets with Honor (New York, 1975), pp. 157-183.

[2]Schenck v. United States, 249 U.S. 47 (1919). The most lasting section of Holmes's famous opinion read: ". . . We admit that in many places and in ordinary times the defendants in saying all that was said in the circular would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. It does not even protect a man from injunction against uttering words that may have all the effect of force. The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree."

[3]Ibid.

[4]Rosa Luxemburg, "The Russian Revolution," Rosa Luxemburg Speaks, ed. Mary-Alice Waters (New York, 1970), pp. 389-390.

[5]The best example of Black's argument in favor of an absolute interpretation of the First Amendment is found in Yates v. United States, 354 U.S. 298 (1957). It read, in part: ". . . The choice expressed in the First Amendment in favor of free expression was made against a turbulent background by men such as Jefferson, Madison, and Mason—by men who believed that loyalty to the provisions of this Amendment was the best way to assure a long life for this new nation and its Government. Unless there is complete freedom for expression of all ideas, whether we like them or not, concerning the way government should be run and who shall run it, I doubt if any views in the long run can be secured against the censor. The First Amendment provides the only kind of security system that can preserve a free government—one that leaves the way wide open for people to favor, discuss, advocate, or incite causes and doctrines however obnoxious and an antagonistic such views may be to the rest of us."

[6]Abrams et al. v. U.S., 250 U.S. 616 (1919), Gillow v. New York, 268 U.S. 652 (1924).

[7]Communist Party of Indiana et al. v. Witcomb, Governor of Indiana, et. al., 414 U.S. 441, rehearing denied, 415 U.S. 952 (1974).

[8]Board of Regents of State Colleges et al. v. Roth, 408 U.S. 571 n. 9.

[9]Foreman v. School Dist. No. 25 of Columbia County, 159 Pac. 1155 (1916).

[10]Ibid. This note includes all the references in the paragraph.

[11]Ibid.

[12]Allied Architects' Ass'n of Los Angeles v. Payne, 221 P. 209 (1923).

[13]Board of Education of City of Eureka et al. v. Jewett, 68 P. 2d. 404 (1937).

[14]Ibid.

[15]Ibid.

[16]Ibid.

[17]Ibid.

[18]Ibid.

[19]Ibid.

[20]Ibid.

[21]Appeal of Albert, 92 A. 2d. 663 (1952).

[22]Ibid.

[23]Since Dorothy Albert's case was treated by the courts as though she had spread her subversive ideas within the actual classroom, it was included in this analysis. My emphasis.

[24]Ibid.

[25]Ibid.

[26]Ibid.

[27]Ibid. The emphasis is by the court.

[28]Dorothy Albert, however, was not so lucky. She was submerged for so long beneath an ocean of anti-communist verbiage that she was seldom acknowledged for page upon page.

[29]This is a principle which extends as far back as Holmes's claim that: "The petitioner [a public employee-policeman] may have a constitutional right to talk politics, but he has no constitutional right to be a policeman." See McAuliffe v. City of New Bedford, 155 Mass. 216, 29 N.E. 517. And, it is a principle which continues all the way through Keyishian v. Board of Regents of University of State of New York, 385 U.S. 589 (1967).

[30]Appeal of Albert, 92 A. 2d. 663 (1952).

[31]Sweezy v. State of New Hampshire, 77 S. Ct. 1203 (1957).

[32]Sweezy is currently the editor of the socialist journal, Monthly Review.

[33]Sweezy v. State of New Hampshire , 77 S. Ct. 1203 (1957).

[34]Ibid. Unfortunately, the Court's comments implied that these fine ideas were restricted to the level of adults and higher education. Only a few years later, another Federal Court threw out the free speech appeal of a non-radical high school teacher who was discharged because he had assigned his class the reading of Brave New World. The judge, in this case, maintained that free speech had to be more restricted in situations dealing with younger students. See Parker v. Board of Education, 237 F. Supp. 222 (D. Md.) (1965).

[35]Barenblatt v. United States of America, 3 L. Ed. 2d. 1115 (1959).

[36]Max Carr et al., Appellants v. R.A. Young et al. Appellees, 331 S.W. 2d. 701 (1960).

[37]Keyishian v. Board of Regents of University of State of New York, 87 S. Ct. 675, (1967).

[38]Ibid.